

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TYLO JEROME FELIX, JR.,

Plaintiff,

v.

C. CAZORES, et al.,

Defendants.

Case No.: 1:24-cv-00332-JLT-SKO

**ORDER GRANTING DEFENDANTS'  
SECOND MOTION TO MODIFY THE  
DISCOVERY AND SCHEDULING ORDER**

(Doc. 22)

Plaintiff Tylo Jerome Felix, Jr. is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's constitutional claims against Defendants Cazores, Smotherman, Diaz, Velasquez, and Arreazola.

**I. BACKGROUND**

The Court issued its Discovery and Scheduling Order on August 23, 2024. (Doc. 17.) The deadline for the filing of a motion for summary judgment based upon a failure to exhaust administrative remedies was set for November 23, 2024. (*Id.*)

On November 14, 2024, Defendants filed a "Motion to Modify Scheduling Order to Extend Deadline to File Motion Challenging Exhaustion of Administrative Remedies." (Doc. 19.) The Court granted the motion on November 20, 2024, extending the deadline for filing an exhaustion motion to December 23, 2024. (*Id.* at 2.) On December 9, 2024, Defendants filed a second motion to modify the scheduling order. (Doc. 22.)

## II. DISCUSSION

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a scheduling order “may be modified only for good cause and with the judge's consent.” Fed. R. Civ. P. 16(b)(4). This good cause standard “primarily considers the diligence of the party seeking the amendment.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The court may modify the scheduling order “if it cannot reasonably be met despite the diligence of the party seeking the extension.” *Id.* If the party was not diligent, the inquiry should end. *Id.*

Defendants move for a 14-day extension of the deadline for filing a motion for summary judgment based upon a failure to exhaust administrative remedies. (Doc. 22.) The motion is supported by the Declaration of Nasstaran Ruhparwar, a Deputy Attorney General at the California Attorney General’s Office. (*Id.* at 6.) The Declaration states that defense counsel Ruhparwar was assigned this matter on November 15, 2024, following the unexpected and extended medical leave of the primary attorney. (Doc. 22 at 3-4 & 6, ¶ 2.) While preparing an exhaustion motion that included declarations from the grievance coordinator at the Substance Abuse Treatment Facility and the Chief of the Office of Appeals, Counsel encountered delays resulting in the need for additional time to prepare the motion. (*Id.*, ¶¶ 4, 6, 7.) The draft declaration was provided to the Chief of the Office of Appeals on December 4, 2024, and the review process generally takes three weeks. (*Id.*, ¶¶ 4, 6.). (*Id.*, ¶ 7.)

Defendants have established good cause for a 14-day extension of the deadline for the filing of a motion for summary judgment based upon a failure to exhaust administrative remedies.

## III. CONCLUSION AND ORDER

Accordingly, and for good cause shown, the Court **ORDERS** that:

1. Defendants’ motion to modify the scheduling order (Doc. 22) is **GRANTED**; and
2. The Discovery and Scheduling Order is **MODIFIED** to extend the deadline for filing a motion for summary judgment based upon a failure to exhaust administrative remedies from December 23, 2024, to **January 6, 2025**.

IT IS SO ORDERED.

1 Dated: **December 10, 2024**

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE

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